

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653 (KRH)
.
.
.
Chapter 11
Jointly Administered
CIRCUIT CITY STORES, .
INC., et al., . 701 East Broad Street
Richmond, VA 23219
.
Debtors. .
.
January 8, 2013
. 2:05 p.m.

TRANSCRIPT OF HEARING
BEFORE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Tavenner & Beran, PLC
By: LYNN L. TAVENNER, ESQ.
20 North Eighth Street, 2nd Floor
Richmond, VA 23219

For Toshiba Entities: Leitess Friedberg PC
By: GORDON S. YOUNG, ESQ.
One Corporate Center
10451 Mill Run Circle
Suite 1000
Baltimore, MD 21117

TELEPHONIC APPEARANCES:

For the Debtor: Pachulski Stang Ziehl & Jones LLP
By: ANDREW W. CAINE, ESQ.
10100 Santa Monica Boulevard
Los Angeles, CA 90067

Proceedings recorded by electronic sound recording, transcript
produced by transcription service

J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, New Jersey 08619
E-mail: jjcourt@jjcourt.com

(609) 586-2311 Fax No. (609) 587-3599

1 COURTROOM DEPUTY: All rise. The court is now in
2 session. Please be seated and come to order.

3 COURT CLERK: Circuit City Stores, Incorporated,
4 Items 1 and 3 on proposed agenda.

5 MS. TAVENNER: Good afternoon, Your Honor.

6 THE COURT: Good afternoon, Ms. Tavenner.

7 MS. TAVENNER: For the record, Lynn Tavenner of the
8 law firm of Tavenner & Beran. Together with me today is Ms.
9 Catherine Bradshaw seated at counsel table.

10 Your Honor, there are only three matters that are on
11 the docket today, the first of which is a motion for approval
12 of agreement with two Toshiba entities that we have one motion
13 that addresses both of those settlement agreements. Counsel
14 for Toshiba is here, as well.

15 You will recall, Your Honor, that the actual
16 settlement agreements themselves have been filed with the court
17 under seal. Pursuant to those agreements, Your Honor, there is
18 a settlement that has been reached with the two Toshiba
19 entities which the estate and the oversight committee certainly
20 believes is in the best interest. Because of the request of
21 Toshiba, they were approved by Your Honor to be filed under
22 seal.

23 Unless Your Honor has specific questions with regard
24 to the details -- the courtroom I don't think is sealed at this
25 point, but if you have specific questions that would require

1 the sealing of the courtroom, I'm happy to answer. Mr. Andy
2 Caine who also was involved in this matter is on the phone, as
3 well.

4 THE COURT: All right, very good. The Court has
5 reviewed the settlement agreements in chambers and is well
6 aware that they were filed under seal, having previously
7 entered an order approving that procedure for handling this.
8 Has any third party requested an opportunity to review the
9 settlement agreements?

10 MS. TAVENNER: No, Your Honor.

11 THE COURT: Okay, very good. Does any party wish to
12 be heard in connection with the motion for an entry of the
13 order approving the agreements between the liquidating trust
14 and the applicable Toshiba entities?

15 (No audible response)

16 THE COURT: All right. There being no objection, as
17 I said, the Court has reviewed it and the Court has
18 independently determined that the trust, by entering into these
19 settlement agreements, has exercised its sound business
20 judgment and is satisfied that the settlement agreement in each
21 instance is in the best interest of the estate. And so, the
22 Court has no problem granting the motion and approving the
23 agreements. And you've already sent me an order to that
24 effect?

25 MS. TAVENNER: I have not sent an order to that

1 effect, Your Honor. We will do that this afternoon.

2 THE COURT: Okay, very good.

3 MS. TAVENNER: Your Honor, the next --

4 THE COURT: If you wish to be excused, you may.

5 MR. GORDON: Yes, thank you, Your Honor.

6 THE COURT: Okay.

7 MS. TAVENNER: The next matter on the docket is --
8 relates to Adversary 10-03382. This is Siegel versus B.R.
9 Fries, F-r-i-e-s, and Associates.

10 This matter has been pending, Your Honor. We have
11 conducted an initial mediation. One of the issues that
12 information continues to be exchanged on is ability to pay and
13 I apologize to the Court. When I was here last time, I asked
14 that it be set down for status today. I should have asked at
15 that point for it to be February 7 given the intervening
16 holidays.

17 And at this point, we do need a little additional
18 time to complete the review and would request for it to be
19 continued until February 7. In the event that we don't come to
20 a meeting of the minds in the near future, we expect that we
21 would be moving to set this down for regular pretrial
22 procedures.

23 THE COURT: Right, because we have a motion --

24 MS. TAVENNER: Yes.

25 THE COURT: -- that needs to be dealt with and we

1 seem to be putting that off. And so we don't really have any
2 kind of critical date that is driving the parties -- I'll say
3 that plurally -- to become reasonable and enter into an
4 agreement. And I've found that by having those kinds of
5 deadlines, it often spurs that kind of enlightened thinking.

6 So, in any event, if we've not resolved it at the
7 next hearing, I think what I would like to see us do is
8 actually hear the motion, if you haven't resolved it by that
9 day, so that we can set it down for trial.

10 MS. TAVENNER: All right, Your Honor. I'm not
11 certain that we have enough time. We need to respond to the
12 motion.

13 THE COURT: Okay.

14 MS. TAVENNER: So we would have to file our response.

15 THE COURT: All right. Well, I certainly don't want
16 to put the trust in a box. All right. Well, I've indicated
17 what my desire would be as far as moving this along. I will
18 leave it to counsel. You've certainly been able to move things
19 along in the past and you can decide what it is. But let's
20 just not continue to put it off and off.

21 MS. TAVENNER: Absolutely, I understand, Your Honor.
22 That's why I was candid with the Court to tell you that --

23 THE COURT: I appreciate --

24 MS. TAVENNER: -- from the last time, we hadn't had a
25 lot of activity.

1 THE COURT: Okay.

2 MS. TAVENNER: But we recognize that the Court wants
3 to move things along. For today's purposes, we would --

4 THE COURT: It'll be continued.

5 MS. TAVENNER: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 MS. TAVENNER: The last matter that's on the docket
8 relates to the trial that was settled just before the holiday,
9 Interactive Toy. Your Honor, we certainly have settled in
10 concept and that's what the agenda says. We're actually
11 further along than that and have a settlement agreement that is
12 being circulated amongst the parties for signatures at this
13 point. But as it hasn't been completely documented, we would
14 respectfully request that it be continued until the February 7
15 date to allow us to wrap that up.

16 THE COURT: And I have no problem doing that. We'll
17 set that down on the 7th of February.

18 MS. TAVENNER: All right. Thank you, Your Honor.
19 That completes all the matters on today's agenda unless you
20 have questions for me or Mr. Caine.

21 THE COURT: I do not. I appreciate the progress that
22 you continue to make in these cases and approving settlement
23 agreements such as you've brought today is an easy task for the
24 Court.

25 MS. TAVENNER: We appreciate that, Your Honor. Thank

1 you.

2 THE COURT: All right.

3 COURTROOM DEPUTY: All rise. The court is now
4 adjourned.

5 * * * * *

6 C E R T I F I C A T I O N

7 I, STEPHANIE SCHMITTER, court approved transcriber,
8 certify that the foregoing is a correct transcript from the
9 official electronic sound recording of the proceedings in the
10 above-entitled matter, and to the best of my ability.

11

12 /s/ Stephanie Schmitter

13 STEPHANIE SCHMITTER

14 J&J COURT TRANSCRIBERS, INC. DATE: January 22, 2013

15

16

17

18

19

20

21

22

23

24

25